

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK SMITH,

Plaintiff,
v.

Civil Case No. 15-11910
Honorable Linda V. Parker

MICHIGAN DEPARTMENT
OF CORRECTIONS, ET. AL.,

Defendant.

**ORDER DENYING MOTION FOR RECONSIDERATION AND TO
APPOINT COUNSEL [ECF NO. 10]**

This is a pro se civil rights complaint filed by Michigan prisoner Jack Smith. The complaint alleges that Plaintiff was wrongfully denied parole on three occasions. He asserts that the denial of parole: (1) violated his rights to equal protection; (2) violated state law; (3) was the result of retaliatory conduct; and (4) violated the Eighth Amendment. The Court summarily dismissed the complaint under 28 U.S.C. § 1915(e)(2). (*See* Order, ECF No. 8).

Presently before the Court is Plaintiff's motion for "immediate reconsideration" and for appointment of counsel. Plaintiff's motion essentially argues that the Court did not specifically find the complaint "frivolous" as he claims is required by §

1915(e)(2), and therefore the complaint should not have been summarily dismissed. (ECF No. 10 at Pg. ID 64.)

U.S. Dist. Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Ward v. Wolfenbarger*, 340 F. Supp. 2d 773, 774 (E.D. Mich. 2004); *Hence v. Smith*, 49 F. Supp. 2d 547, 550-51 (E.D. Mich. 1999). A motion for reconsideration which merely presents “the same issues ruled upon by the Court, either expressly or by reasonable implication,” shall be denied. *Ward*, 340 F. Supp. 2d at 774.

Here, contrary to Plaintiff’s argument, after conducting a careful analysis, the Court found that each of Plaintiff’s claims failed to state a claim on which relief may be granted, and the complaint was therefore subject to summary dismissal under § 1915(e)(2). (ECF No. 8 at Pg. ID 56-61.) Plaintiff does not present any substantive argument in his motion undermining the Court’s disposition of the case. Accordingly,

Petitioner's motion for immediate reconsideration and appointment of counsel is
DENIED.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: July 12, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, July 12, 2016, by electronic and/or U.S. First Class mail.

S/Kelly Winslow for Richard Loury
Case Manager